

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

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IN RE:) Docket No. 04-00034
PETITION OF CHATTANOOGA GAS)
COMPANY FOR APPROVAL OF)
ADJUSTMENT OF ITS RATES AND)
CHARGES AND REVISED TARIFF)

**CHATTANOOGA MANUFACTURER'S ASSOCIATION RESPONSES AND
OBJECTIONS TO CHATTANOOGA GAS COMPANY'S FIRST SET OF DATA
REQUESTS**

Pursuant to Rules 26, 33 and 34 of the Tennessee Rules of Civil Procedure and Tennessee Code Annotated §4-5-301, et seq., the Chattanooga Manufacturers Association's Intervention Group (hereinafter "CMA"), by and through its attorneys, submits the following objections and responses to the First Set of Data Requests from Chattanooga Gas Company (the "Company") propounded upon CMA, stating as follows:

GENERAL OBJECTIONS

1. CMA objects to the definitions and instructions contained in the data requests for production to the extent that the definitions and instructions attempt to impose on CMA a burden or obligation greater than that required by the Tennessee Rules of Civil Procedure and applicable statutes and regulations governing contested case hearings.

2. CMA objects to the data requests to the extent they call for information and the production of documents which are protected from disclosure by the attorney-client privilege, the attorney work product doctrine or any other applicable privilege or protection. CMA objects to the Company's data requests to the extent that the Company is attempting to impose on CMA obligations with regard to identification of privileged documents beyond those required by the Tennessee Rules of Civil Procedure and applicable statutes and regulations governing contested case hearings.

3. CMA objects to the Company's data requests to the extent that they seek information relating to matters not at issue in this litigation or to the extent they are not reasonably calculated to lead to the discovery of admissible evidence. By providing information in response to these requests, CMA does not concede that such information is relevant, material or admissible in evidence. CMA reserves all rights to object to the use of such information as evidence.

4 CMA objects to the Company's data requests to the extent that the Company is attempting to impose on CMA obligations to supplement its responses beyond those required by the Tennessee Rules of Civil Procedure and applicable statutes and regulations governing contested case hearings.

5. CMA objects to the Company's data requests to the extent that the Company is attempting to require CMA to provide information and produce documents beyond those in its possession, custody or control as that phrase is used in the Tennessee Rules of Civil Procedure and applicable statutes and regulations governing contested case hearings.

6. CMA objects to the Company's data requests to the extent that they seek information and documents that are readily available through public sources or are in the Company's own possession, custody or control. It is unduly burdensome and oppressive to require CMA to respond or produce documents that are equally or more available to the Company.

7. CMA objects to the production of any documents prepared by it subsequent to the filing of this litigation or contested case.

8. CMA's objections and responses to these requests are based on information now known to it. CMA reserves the right to amend, modify or supplement its objections and responses if it learns of new information

OBJECTIONS AND RESPONSES TO SPECIFIC DATA REQUESTS

Subject to and without waiving any of the objections stated above, CMA responds to the specific data requests as follows:

1. Please provide the name, address, telephone number and name of the president or other comparable officer of each member of the CMA.

Response No. 1: Subject to and without waiving its objections, CMA provides to the Company a reference to CMA's member companies which can be found at, generally speaking, www.cma1902.com/members.

2. Please provide a copy of the organizational document creating the CMA, e.g., the Charter or Articles of Organization.

Response No. 2: CMA objects on the grounds that Request No. 2 is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Further, the requested document is a public record available to Petitioner through the Tennessee Secretary of State's Office.

3. Please provide a copy of the Bylaws of CMA or other comparable documents pertaining to governance.

Response No. 3: CMA objects to Request No. 3 on the grounds that it is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence. CMA further objects on the grounds that Request No. 3 is vague and ambiguous with respect to the phrase "other comparable documents pertaining to governance."

4. Please describe how CMA determines what positions it will take in the Chattanooga Gas Company rate proceeding, TRA Docket No. 04-00034. Your description should include whether all the members vote on what positions are taken or whether this authority is delegated to others

Response No. 4: CMA objects to Request No. 4 on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. CMA further objects on the grounds that Request No. 4 encroaches upon the attorney-client privilege and seeks the mental conclusions and impressions of its attorneys, which are privileged and will not be provided. Subject to and without waiving its objections, CMA intends to provide the following general description concerning its intervention and opposition to the increase in rates which Chattanooga Gas Company would prefer be unchallenged and unfettered: CMA considers the Petition filed, newspaper articles, comments from its members and other available information, and based upon all of the above makes a decision (through its Board of Directors) whether to seek authorization from the Tennessee Regulatory Authority to intervene. CMA has in the past retained the assistance of counsel and expert witnesses related to the regulated industry to assist it in understanding the requests made in the Petition, to counsel CMA with respect to the positions it should take and to assist in any challenge or opposition to the requested relief (including opposing increases and rates) if that is appropriate.

5. Please list the names of CMA members that have obtained gas pursuant to CGC's industrial tariffs within the last fifteen months, i.e., January 1, 2003 through March 31, 2004.

Response No. 5 CMA objects to Request No. 5 on the grounds that the information requested is within the custody and control of the Gas Company, not CMA, and, therefore, is unduly burdensome and oppressive. In fact, CMA requested similar information from the Company at the commencement of this rate increase petition, which the Company refused to provide to CMA.

6. Please list the names of members of CMA who have subscribed to CGC's commercial tariffs within the last fifteen months, i.e., January 1, 2003 through March 31, 2004.

Response No. 6. See No. 5 above and General Objection No. 6.

7. Please list the names of members of CMA who are not currently customers of CGC.

Response No. 7: CMA objects to Request No. 7 on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. See also General Objection No. 6.

8. Please list any CMA members who do not anticipate being customers of CGC during the period July 26, 2004 through July 5, 2005.

Response No. 8: CMA objects to Request No. 8 on the grounds that it calls for speculation. CMA has no way of anticipating which members will (or will not) remain customers of the Company, as this is influenced by a variety of factors—including, but not limited to—increases in gas rates and other gas-related charges which could force the companies to shut down, relocate or become bankrupt during the stated period

9. Provide detailed workpapers, cross-referenced to source documents, which show the computation of each amount of any exhibit that is to be filed by the Chattanooga Manufacturers Association that is different from the corresponding amount presented on Chattanooga Gas Company's exhibits filed in this docket.

Response No. 9: CMA objects to Request No. 9 as being over-broad, vague, ambiguous and unduly burdensome. Subject to and without waiving all objections, CMA states that, at this time, experts have not been determined for the testimony at trial, and CMA will identify experts, if any, within the time limits and requirements set forth by the scheduling order in this and appropriately supplement its response to this discovery request. CMA further states that it historically has supplied relevant and appropriate materials in conjunction with expert testimony in rate-making cases and intends to cooperate with respect to discovery in this rate-making case as well, to the extent CMA designates witnesses and pre-filed testimony.

10. Produce copies of any written communications that the Chattanooga Manufacturers Association has issued to or received from any Chattanooga Gas Company customer that is not a member of the Chattanooga Manufacturers Association.

Response No. 10: CMA objects to Request No. 10 on the grounds that it is overly broad and unduly burdensome. The Company has not provided its customer list to CMA for comparison purposes and, additionally, even if the Company was to provide said list it would contain so many customers in that database as to be unduly burdensome and oppressive. CMA further objects on the grounds that Request No. 10 is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

11. Produce copies of all documents or things shown to, delivered to, received from, relied upon or prepared by any witness that may appear on behalf of the Chattanooga Manufacturers Association in any hearing in this docket, which are related to the witness(es)' expected testimony in this case, whether or not such documents are supportive of such testimony, including without limitation all documents or things provided to that witness for review in connection with testimony and opinions

Response No. 11: CMA objects to Request No. 11 on the grounds that it is overbroad, unduly burdensome and duplicative. Subject to and without waiving its objections, CMA anticipates it may call at least one expert witness who will have reviewed materials submitted by the Company, Consumer Advocate Division, TRA staff and/or others prior to testifying in this matter (and, if so, will pre-file testimony). Additionally, CMA objects to Request No. 11 on those grounds that it encroaches upon the attorney-client privilege and/or seeks the mental impressions and conclusions of CMA attorneys, which are privileged and will not be provided.

12. Produce a copy of all documents which relate or pertain to any factual information provided to, gathered by, utilized or relied upon by any witness that may appear on behalf of the Chattanooga Manufacturers Association in any hearing in this docket in evaluating, reaching conclusions or formulating an opinion in this matter.

Response No. 12 See Objection No. 11, above. CMA further objects to Request No. 12 to the extent that it seeks the identification of all documents which “relate or pertain” to any factual information utilized or relied upon by proposed experts, as it is impossible to respond to such a broad question.

13. Produce copies of any and all testimony and exhibits entered in any proceeding pertaining to a regulated utility by any witness that may appear on behalf of the Chattanooga Manufacturers Association in any hearing in this docket

Response No. 13: CMA objects to Request No. 13 on the grounds that it is overly broad and unduly burdensome in seeking “any and all testimony and exhibits” from “any proceeding pertaining to a regulated utility” by witnesses that may appear on behalf of CMA. Subject to and without waiving its objections, CMA intends to continue the generally accepted practice of providing to the Petitioner a list of proceedings in which any expert witness CMA intends to call has provided testimony pertaining to a regulated utility.

14. Produce a copy of all articles or papers written by or co-written by any witness that may appear on behalf of the Chattanooga Manufacturers Association in any hearing in this docket, whether published or not.

Response No. 14: CMA objects to Request No. 13 on the grounds that it is overly broad and unduly burdensome in seeking “all articles or papers written or co-written by the witness” by witnesses that may appear on behalf of CMA. Subject to and without waiving the objection, CMA

intends to continue the generally accepted practice providing to the petitioner a list of proceedings in which any expert witness CMA intends to call has provided testimony pertaining to a regulated utility.

15. Produce copies of all stipulations or settlement agreements entered into by the Chattanooga Manufacturers Association in any proceeding before the Tennessee Regulatory Authority since 1996.

Response No. 15: CMA objects to Request No. 15 on the grounds that it is irrelevant, overly broad, unduly burdensome, vague, ambiguous, and that stipulations or agreements, if any, entered into by CMA and accepted by the Tennessee Regulatory Authority are public records equally or more available to the Company.

16. If the Chattanooga Manufacturers Association proposes a rate design that is different from the design proposed by Chattanooga Gas Company, produce copies of all workpapers, cross-referenced to source documents, which support the Chattanooga Manufacturers Association proposed rate design.

Response No. 16: See General Objection No. 2; subject to and without waiving all objections, none at this time.

17. If the Chattanooga Manufacturers Association intends to introduce a class cost of service study in this docket, provide the complete study including all workpapers cross-referenced to source documents.

Response No. 17: See General Objection No. 2; subject to and without waiving all objections, none at this time.

18. If the Chattanooga Manufacturers Association intends to introduce a class cost of service study in this docket, provide the complete study including all workpapers cross-referenced to source documents.

Response No. 18: See General Objection No. 2; subject to and without waiving all objections, none at this time.

19. If the Chattanooga Manufacturers Association intends to introduce a class cost of service study in this docket, provide a copy of each such study prepared during the past five years by the witness that will enter testimony relative to the study in this docket

Response No. 19: CMA objects to Request No 19 on the grounds that it is ambiguous as to the term "each such study," irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, overbroad and unduly burdensome, especially as to class cost of service studies other than those for Chattanooga Gas Company rate increase cases. Additionally, CMA has no control over what may be proprietary information for entities or individuals other than CMA.

20. Produce copies of all documents or workpapers, prepared by or provided to any witness that may appear on behalf of the Chattanooga Manufacturers Association in any hearing in this docket that relate to the volume of gas projected to be purchased or transported during the July, 2004 - June, 2005 attrition period by any member of the Chattanooga Manufacturers Association.

Response No. 20: See General Objection No. 2; subject to and without waiving all objections, none at this time

21. Please provide the name, employer, position/title, business address and telephone number of any witness(es) that will testify on behalf of CMA in this docket.

Response No. 21 CMA objects to Request No 21 on the grounds that it encroaches upon the attorney-client privilege and seeks the mental impressions and conclusions of its attorneys, which are privileged and will not be provided CMA further objects on the grounds that Request No. 21 is premature, in that testimony is not yet due from CMA, who was only granted intervention status into this docket after a hearing on April 19, 2004. Subject to and without waiving its objections, CMA intends to determine whether it will need to file testimony, and, if so, will file testimony containing the requested information on or before the deadline set forth in the Scheduling Order.

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CERTIFICATE OF SERVICE

I hereby certify that I have on this 5th day of May, 2004, served the foregoing pleading either by fax, overnight delivery service or first class mail, postage prepaid, to all parties of record at their addresses shown below:

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